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UNCLAS SANTO DOMINGO 001009

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DEPARTMENT FOR WHA, WHA/CAR SEARBY, INL/P KBROWN,
EEB/TPP/IPE; USDOC ALSO FOR USPTO;
DEPARTMENT PLEASE PASS FTC ARMANDO IRIZARRY
JUSTICE FOR OPDAT ROBERT LIPMAN

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SUBJECT: BEST PRACTICES WORKSHOP PUTS DOMINICANS ON ROAD TO
IMPROVED IPR ENFORCEMENT

11. (SBU) Summary. The U.S. government has regularly placed the Dominican Republic on the annual Special 301 Watch List because of Dominican ineffectiveness in combating violations of intellectual property rights (IPR). Particularly at issue are piracy of optical disks and theft of broadcast rights for both cable and "open" or "free" television. With the recent entry into force of the DR-CAFTA free trade agreement and its associated mechanisms dealing with IPR violations, Dominican authorities have now placed a special emphasis on combating IPR piracy. In this context, the Embassy, in coordination with the Department of Justice's Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) last week hosted a 3-day workshop. The product was a 55-page Dominican multi-agency "best practices" manual for fighting IPR piracy. End Summary.

Workshop Participants

12. (U) Funding for this workshop was transferred to OPDAT for use in DR-CAFTA countries by the Department of State's Bureau of International Narcotics and Law Enforcement. Facilitators were provided by OPDAT (Program Director Robert Lipman) and the Federal Trade Commission (Attorney Armando Irizarri, Bureau of Competition). Logistics were arranged by the Embassy.

13. (U) Embassy selection of participants covered the full range of governmental agencies dealing with IPR issues, with 18 attendees coming from the ranks of the Directorates General of Customs (DGA) and Taxation (DGII), the National Police, the National Copyright Office (ONDA), the Attorney General's Office, the National Institute for Forensic Science (INACIF), the Dominican Institute for Telecommunications (INDOTEL, cable regulation), and the Financial Analysis Unit of the National Commission on Drugs (charged with investigation of money-laundering not directly related to the financial system). An additional 6 participants were chosen from the judicial sector, as well as from victimized industries (primarily music producers, software manufacturers, and pharmaceutical enterprises).

14. (SBU) Getting these 24 participants together at a single time and for a common purpose was a notable achievement.

The private sector watchdog International Intellectual Property Alliance cites the country's "poor coordination" and "obstructionist" attitudes as contributing factors that should, in its opinion, lead to Special 301 Priority Watch List status for the Dominican Republic in 2007. (See <http://www.iipa.com/rbc/2007/2007SPEC301DOMINICANREPUBLIC.pdf>) Better still was the group's commitment to work together in the development of the manual, and more critically, to continue functioning as an IPR anti-piracy taskforce.

Draft of a "Best Practices" Manual

¶5. (U) With both round-table discussions and focused work by self-selected subgroups, participants created a draft manual concentrating on the following areas: 1) initial intelligence gathering and detection techniques, especially in the areas of medicine, software, music and film, television signals, artistic works (e.g., sculpture, painting, etc.) and literary works, as well as regarding personal products destined for individual consumers (e.g., appliances, cosmetics, sunglasses, etc.); 2) investigation techniques; 3) prosecution techniques; and 4) a proper and expansive application of the entire criminal code for IPR piracy.

Next Steps

¶6. (SBU) It would be wonderful to think that the immediate aftermath of this workshop will be a 10-fold increase in

the investigation and prosecution of IPR violators, including a shift away from street-level distributors to wholesale manufactures. But both Embassy officials and workshop participants realize that this will not be the case. At the workshop's close, participants noted that much work remains to improve the draft manual prior to full government-wide distribution. There is also the need for expanded training of governmental personnel on IPR policies and procedures. On the former point, workshop participants agreed to continue their work as an IPR anti-piracy taskforce, part of which would involve scheduled periodic meetings and a formal process of review and improvement of the manual. The next meeting is scheduled for May 27, ¶2007. Participants also expressed their desire for an additional USG-sponsored anti-piracy program directed exclusively at the judiciary; this is under consideration for the close of 2007, contingent on availability of funding.

¶7. (SBU) As for the Embassy, our view is that only a fully functioning, stable, and permanent taskforce can achieve the level of Dominican government buy-in necessary to achieve the dramatic changes in numbers of investigations and types of suspects sought. The Embassy has already placed mention of this taskforce in a published op-ed celebrating World Intellectual Property Day - one step in the Embassy's efforts to foster a group recognition and identity. The Embassy will continue to work toward further taskforce strengthening, as well as the expansion of associated programming.

¶8. (U) This report and extensive additional material are available on the Embassy's classified SIPRNET at <http://www.state.sgov.gov/p/wha/santodomingo/HERTELL>